



INTERNATIONAL  
**TRADE**  
ADMINISTRATION

## China IPR News for U.S. Industry August 26, 2008



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**\*\*\*SAVE THE DATE: November 6 and 7; The Ambassador's IPR Roundtable, Beijing, China.**

Ambassador Clark Randt's seventh and final annual IPR Roundtable will be held in Beijing on Thursday and Friday, November 6 and 7. This year's focus will be on new Chinese IPR legislation, resulting strategies, and the implications for U.S. businesses. In June, China announced its National IPR Strategy. On August 1, China's new Anti-Monopoly Law took effect. Revisions of China's patent, trademark, and copyright laws are all underway. The Sino-U.S. Joint Commission on Commerce and Trade (JCCT) IPR Working Group is re-convening. The Ambassador's IPR Roundtable will provide a forum to examine these and other issues. Registration information and agenda to follow.

### PATENTS

**1. WIPO Patent Report – China Increases Worldwide Patent Filings:** The World Intellectual Property Organization (WIPO) recently released its "World Patent Report," noting that the total number of applications filed around the world in 2006 was estimated to be 1.76 million, representing a 4.9% increase over 2005. Applicants from Japan, the United States, the Republic of Korea, Germany, and China accounted for 76% of total patent filings in 2006. Between 2005 and 2006, Chinese, Korean, and American applicants increased their patent filings by 32.1%, 6.6% and 6.7%, respectively. Between 2000 and 2006, Chinese applicants enlarged their share of total worldwide patent filings from 1.8% to 7.3%, mostly due to increases in domestic patent filings. Applicants from Japan, the United States, the Republic of Korea, and Germany received 73% of the total patent grants worldwide. Between 2000 and 2006, the number of patents granted to Chinese and Korean applicants grew by an average of 26.5% and 23.2% per year, respectively. (Chinese Source: *China IP News*, August 8, 2008, Page 1.) (English Source: [http://www.wipo.int/ipstats/en/statistics/patents/wipo\\_pub\\_931.html](http://www.wipo.int/ipstats/en/statistics/patents/wipo_pub_931.html).)

**2. Chinese Lysine Producer Wins Initial Judgment in Section 337 Patent Case:** In a recent patent-infringement case, the United States International Trade Commission (USITC) has found in favor of the Dacheng Group, China's largest lysine producer. The ruling means Dacheng can continue exporting lysine to the U.S. Dacheng is the first Chinese company to win a case brought under Section 337 of the U.S. Tariff Act of 1930. Lysine is an essential amino acid that cannot be synthesized in the body and must be ingested. It is an important food additive for swine and poultry, without which pigs and chickens suffer stunted growth, stress, and low meat yield. In 2006, Ajinomoto, a Japan-based global leader in feed-grade amino-acid manufacturing, filed a complaint with the USITC,

alleging that Dacheng lysine and L-lysine products exported to the U.S. infringed two of Ajinomoto's registered American patents. These patents protect the technology for efficiently producing lysine feed-grade amino acid. In his initial determination issued on July 31, Charles E. Bullock, Administrative Law Judge of the USITC, concluded that Ajinomoto could not enforce the two patents because Ajinomoto's patent specifications provided insufficient detail as to manufacture and implementation. According to U.S. patent law, patent specifications must describe the claimed invention with sufficient detail to "teach others how to make and use the invention." If a claim includes devices, compositions, or processes that are inadequately described, the claim is deemed invalid. Ajinomoto expressed disappointment with the decision, and vowed to appeal. A final ruling is expected by December 1. Presently, Dacheng's lysine products account for 30 percent of the world's lysine market, and 70 percent of the Chinese market. Dacheng has exported about USD \$9 million worth of lysine products to the U.S. (Source: *China Daily*, August 18, 2008, Page 9.)

## TRADEMARKS

**3. ABRO Wins Trademark Suit Against Hunan Magic:** Deciding a long-running infringement lawsuit, the Guangdong High People's Court entered a final judgment in favor of U.S. complainant ABRO Industries, Inc. against Hunan MAGPOW Adhesive Industries, also known as Hunan Magic. The Court ordered Hunan Magic to pay ABRO RMB 500,000 in damages. ABRO, a leading U.S. adhesives manufacturer, owns the registered trademark "ABRO," and sells its products in more than 100 countries. In June 2002, Hunan Magic filed an application to register "ABRO" with the China Trademark Office (CTMO). In response, ABRO filed an opposition to the application. In September 2004, the CTMO refused Hunan Magic's application. Hunan Magic then filed successive applications for review of the CTMO's decision to the Trademark Review and Adjudication Board, the Beijing No.1 Intermediate People's Court, and the Beijing High People's Court, with each tribunal affirming the CTMO's initial decision to deny registration. In October 2004, ABRO filed suit against Hunan Magic with the Guangzhou Intermediate People's Court, alleging trademark infringement and misuse of a famous product's name, packaging, and ornamentation. ABRO sought an injunction, an apology, and monetary damages from Hunan Magic. (Source: [http://english.ipr.gov.cn/ipr/en/info/Article.jsp?a\\_no=231124&col\\_no=927&dir=200808](http://english.ipr.gov.cn/ipr/en/info/Article.jsp?a_no=231124&col_no=927&dir=200808).)

## COPYRIGHTS

### 4. Pirated Olympic Broadcasts Removed:

Copyright monitors have uncovered more than 1,600 pirated Olympic broadcasts at home and abroad since the opening of the Games. More than 100 of the 1,600 cases occurred in China, according to Yan Xiaohong, Vice-Minister of the National Copyright Administration of China (NCAC). Offenders are ordered to cease transmission. The NCAC, the State Administration of Radio, Film, and Television, the Ministry of Industry and Information Technology, and the State Council Information Office jointly have been supervising and enforcing copyright protection for Olympic broadcasts. (Source: *China Daily*, August 17, 2008, Page 3; [http://www.chinadaily.com.cn/cndy/2008-08/17/content\\_6942678.htm](http://www.chinadaily.com.cn/cndy/2008-08/17/content_6942678.htm) and [http://english.ipr.gov.cn/ipr/en/info/Article.jsp?a\\_no=232118&col\\_no=925&dir=200808](http://english.ipr.gov.cn/ipr/en/info/Article.jsp?a_no=232118&col_no=925&dir=200808).)

### 5. China Central Television Sues Over Unauthorized On-Line Olympic Broadcasts:

China Central Television (CCTV) filed suit against a Guangzhou-based Chinese web site for broadcasting live a portion of the Olympic-torch relay without permission. CCTV claimed that Shijilong Information Network Co., Ltd. did not have authorization to broadcast the May 8 portion of the Olympic-torch relay that took place on Mount Everest. CCTV stated that the on-line broadcasting rights of CCTV's programs belonged to CCTV.com, and that any broadcast otherwise constituted copyright infringement. The International Olympic Committee has recognized CCTV.com as China's sole official internet and mobile broadcaster of the Beijing Games. In pleadings filed with the Guangzhou Intermediate People's Court, CCTV demanded that Shijilong publicly apologize for its conduct, and pay RMB 4.1 million (USD \$597,667) in compensation. This is the second time that CCTV has filed a lawsuit against a web site for on-line Olympic-video copyright infringement. Earlier this month, CCTV filed a suit against Xunlei.com, one of the country's largest download service providers, with the Second Intermediate People's Court of Shanghai. It accused Xunlei.com of illegally broadcasting live on June 30 the Wuzhong leg of the Olympic-torch relay in the Ningxia Hui Autonomous Region. CCTV again insisted that the defendant publicly apologize for its conduct, and pay more than RMB 2 million (USD \$291,545) in damages. (Source: *China Daily*, August 17, 2008, Page 3; [http://www.chinadaily.com.cn/cndy/2008-08/17/content\\_6942673.htm](http://www.chinadaily.com.cn/cndy/2008-08/17/content_6942673.htm); and [http://english.ipr.gov.cn/ipr/en/info/Article.jsp?a\\_no=231729&col\\_no=927&dir=200808](http://english.ipr.gov.cn/ipr/en/info/Article.jsp?a_no=231729&col_no=927&dir=200808).)

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